THE HON'BLE MRS. JUSTICE T. MEENA KUMARI
And
THE HON'BLE MS. JUSTICE G ROHINI

W.P. No. 22819 of 2007

ORDER (per Hon'ble Mrs. Justice T Meena Kumari) :

This writ petition is filed by way of Writ of Mandamus seeking to declare the action of the respondent in passing the assessment proceedings for the year 2003-04, dated 31.03.2007, as arbitrary, and contrary to the provisions of the Act and to set aside the same.

Petitioner is a proprietary concern represented by its Proprietor and he filed the affidavit filed in support of the writ petition. It is stated in the affidavit that the petitioner is proprietary concern carrying on business in Wheat products, dalls, copra, peas, vanaspathi oils, rice etc., and registered as a dealer on the rolls of the respondent under A.P. General Sales Tax Act and Central Sales Tax Act. It is also stated that for the assessment year 2003-04, the respondent issued a show cause notice dated 23-12-2006 that was served on petitioner on 29-12-2006 proposing to assess the turnover based on the inspection made by the Vigilance & Enforcement Officer, Kurnool. It is also stated that against the said show cause notice, the petitioner submitted a detailed explanation, but the respondent without considering the objections raised by it, passed the impugned proceedings dt. 31-03-2007 directing to pay Rs.82,876.00 on the ground of difference of tax. It is further stated that the impugned proceeding is in violation of natural justice and hence he constrained to file the present writ petition.

At the time of hearing the matter, learned counsel appearing

on behalf of the petitioner submits that the impugned proceeding was passed without considering the objections raided by the petitioner in its explanation submitted to the show cause notice, he seeks permission of this Court to grant an opportunity to the petitioner to raise its objections before the respondent.

Learned Government Pleader for Commercial Taxes opposed the said submission.

Heard the learned counsel for the petitioner as well as the learned G P for Commercial Taxes. In view of the submission made by the learned counsel for the petitioner that the explanation submitted by the petitioner was not considered before passing the impugned proceedings, we feel it suffice that a direction be given to the respondent to consider the matter afresh after giving an opportunity to the petitioner.

In the particular circumstances of the case, the impugned proceeding dated 31.03.2007 issued by the Commercial Tax Officer-I, Ananthapur(respondent) is stayed subject to the condition of petitioner paying one-half (½) of amount demanded in the impugned proceeding dated 31.03.2007, within a period of six (6) weeks from the date of receipt of a copy of this order. Further, we direct the respondent to consider the case of the petitioner afresh after giving an opportunity to it.

With the above directions, this writ petition is disposed of at the state of admission.

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T. MEENA KUMARI, J

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G ROHINI, J

Dt. 05.12.2007
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THE HON'BLE MRS. JUSTICE T. MEENA KUMARI
And
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W.P. No. 22819 of 2007

(Order of the Division Bench delivered by the Hon'ble Mrs. Justice T Meena Kumari) :

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05th December 2007